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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CM(M) 3885/2024**

SUMEDHA CHOPRA

.....Petitioner

Through: Mr. Saurabh Suman Sinha, Advocate.

versus

SHRI SHITAL KUMAR BHANDARI & ANR.Respondents

Through: Ms. Harsha Sharma, Advocate,

CORAM:

HON'BLE MR. JUSTICE RAVINDER DUDEJA

ORDER

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22.11.2024

CM APPL. 68135/2024, CM APPL. 68136/2024 (exemptions)

Allowed, subject to all just exceptions.

This application stands disposed of.

CM(M) 3885/2024 & CM APPL. 68137/2024 (stay)

1. The petition impugns the order dated 30.09.2024 passed by the Court of learned District Judge-03, South East, District Saket.
2. Plaintiff filed a suit, seeking the reliefs of eviction of the defendant from the suit property, recovery of arrears of rent along with pendente-lite and future interest, restoration of the suit property to its original condition, recovery of damages to the furniture lying in the suit property and recovery of cost.
3. On an application filed under Order 12 Rule 6 CPC, vide order dated 08.05.2024, the learned District Judge, passed the decree qua possession and



consigned the file to record room.

4. Petitioner has challenged the decree of possession in appeal.

5. Subsequent thereto, the respondent filed an application under Section 151 CPC for seeking clarification/revival/restoration and listing of the suit on the ground that besides eviction, the respondent had also prayed for other substantive reliefs which were to be adjudicated.

6. Realising the mistake, the learned trial Court passed the impugned order dated 30.09.2024 taking note that the order of consignment of file to the record room was an inadvertent mistake and accordingly recalled the order dated 08.05.2024 to the extent of consignment of file to the record room.

7. Simultaneously, and in the same order, trial Court directed that a Court notice be sent to the defendants and fixed the case for 25.11.2024 for framing issues qua the other reliefs.

8. The main challenge to the impugned order is on the ground that application under Section 151 CPC has been decided by the Trial Court in the absence of the petitioner and without any notice.

9. The learned counsel of respondent has no objection, if the petitioner is permitted to contest the application filed under Section 151 CPC before taking any further steps in the matter.

10. In view of the concession granted from the respondent side and without considering the merits and contentions of the parties on merits of the order, the learned trial Court is directed to give an opportunity of hearing to both the parties on application under Section 151 CPC, before taking any further action in the matter.



11. The petition is accordingly disposed of in view of the above terms.
12. All the rights and contentions of the parties on merits are left open.

RAVINDER DUDEJA, J

NOVEMBER 22, 2024/vp